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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,095	05/04/2001	Roy G. O'Neal		9419

7590 03/26/2003

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EXAMINER

MCDONALD, SHANTESE L

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 09/849,095	Applicant(s) O'Neal et al.
Examiner McDonald, Shantese	Art Unit 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Feb 14, 2003

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1-18 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 2, 11, and 18 is/are rejected.

7)  Claim(s) 3-10 and 12-17 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

1. Applicant's election without traverse of claims 1-18 in Paper No. 3 is acknowledged.

### *Specification*

2. The disclosure is objected to because of the following informalities:

Page 3, line 14, states "A lower", it is not clear as to what is meant by this

Also, the reference numbers in the specification do no coincide with the numbers on the drawings.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2, 11 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, line 1, what is meant by "the support means wherein the first blade holding means"?

In claim 11, it is unclear as to how the support means first end is movably attached to the support means second end.

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5. Claim 18 recites the limitation "the blades" in lines 2 and 5. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 18 recites the limitation "the stone" in lines 2 and 9. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 18 recites the limitation "the user" in lines 7,8 and 9. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 18 recites the limitation "the piston rod" in line 8. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 18 recites the limitation "the V" in line 9. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-  
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under

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section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

11. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Findley.

Findley teaches a support means, having a first end, 6, and a second end, 4, a left side, and a right side, a support length, 26, between the first end and the second end, and support surface along the support length for supporting the workpiece, a first blade holding means, 10, attached to the support means for holding a first blade, 16, so that the first blade length is approximately perpendicular to the support surface, and a second blade holding means, 24, for holding the second blade, 22, in a fixed position on the support means .

12. Claim 18 is rejected under 35 U.S.C. 102(e) as being anticipated by Snell.

Snell teaches a rock cutting process comprising blades, 63, 67, separated by distance adequate to allow a stone to be put into place, the blades are then slowly adjusted by the use of a piston, so that they come together on either side where the cut is to be made. The stone is then cut into two pieces, (col. 4, lines 29-54).

13. Claims 3-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rakowski was cited to show another example of a rock cutter.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shantese McDonald whose telephone number is (703) 308-8722.



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S.L.M.

March 21, 2003